

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

EMMANUEL C. GONZALEZ,

Plaintiff

V.

ZULILY, INC.,

Defendant.

Civil Action No. 2:14-cv-00630-JRG-RSP
JURY TRIAL DEMANDED

**DECLARATION OF RYAN MCBRAYER IN SUPPORT OF
ZULILY'S MOTION TO TRANSFER VENUE TO THE WESTERN DISTRICT OF
WASHINGTON PURSUANT TO 28 U.S.C. § 1404(a)**

I, Ryan McBrayer, declare:

1. I am a partner at the law firm of Perkins Coie LLP and am lead counsel for the defendant zulily, inc. (“Zulily”) in this action. I make this declaration in support of Zulily’s Motion to Transfer Venue to the Western District of Washington Pursuant to 28 U.S.C. § 1404(a). This declaration is based on my own personal knowledge and from information derived from records maintained under my supervision. If called to testify, I am competent to explain the facts set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of U.S. Patent 6,029,141 (“the ’141 patent”).

a. The four inventors identified on the face of the '141 patent are Jeffrey P. Bezos; Sheldon J. Kaphan; Ellen L. Ratajak; Thomas K. Schonhoff; all of whom still reside in Seattle, Washington according to a search that I supervised of a private locator database provided by TLO Address Reporting.

3. Attached hereto as Exhibit B is a print out of the website Wikipedia regarding Microsoft's MSN network, which indicates that the MSN network including Microsoft AdCenter and MSN Shopping was available to the public no later than 1999.

4. Attached hereto as Exhibit C is a true and correct copy of U.S. patent 6,353,813 (the '313 patent).

- a. The '313 patent, on its face, identifies two inventors both of whom were working for Microsoft at the time the patent was issued, both of whom still reside in Seattle according to a search that I supervised of a private locator database provided by TLO Address Reporting.

5. Attached as Exhibit D is a print out from Google Maps that shows that the distance between Zulily's headquarters and the Federal courthouse in the Western District of Washington is 1.3 miles and that the drive time is 5 minutes.

6. Attached as Exhibit E is a print out from a mapping website that shows the distance between Seattle, Washington and Marshall, Texas is 1,790 miles.

7. Attached as Exhibit F is a print out from Google Flights that shows that the duration of a flight from Seattle, Washington to Shreveport, Louisiana is approximately 6 hours by plane; and a print out from Google Maps that shows that the drive from Shreveport to Marshall takes about 40 minutes.

8. Attached as Exhibit G is a print out from Google Flights that shows that the duration of a flight from Seattle, Washington to Dallas, Texas is approximately 4 hours by plane; and a print out from Google Maps that shows that the drive from Dallas to Marshall takes about 2.5 hours.

9. Attached as Exhibit H is a print out from Google Maps that shows that the driving time between British Columbia, Canada and the Federal courthouse in the Western District of Washington is about 2 hours.

10. Attached as Exhibit I is a print out from Google Flights that shows flights from Vancouver, British Columbia, Canada to Shreveport, Louisiana and the shortest flight time is about 6 hours.

11. Attached as Exhibit J is a print out from Google Flights that shows flights from Vancouver, British Columbia Canada to Dallas Texas and the shortest flight time is four hours.

12. Attached as Exhibit K is a true and correct copy of an excerpt of the United States District Courts - National Judicial Caseload Profile for the Eastern District of Texas downloaded from the website of the United States Court that shows statistics for December 2013.

13. Attached as Exhibit L is a true and correct copy of an excerpt of the United States District Courts - National Judicial Caseload Profile for the Western District of Washington downloaded from the website of the United States Court that shows statistics for December 2013

14. Attached as Exhibit M is a print out of the docket for *Gonzalez v. Anastasia, Int'l Inc.*, 2-14-cv-00769.

15. Attached as Exhibit N is a print out of the docket for *Gonzalez v. AutoTrader.com, Inc.*, No. 2-14-cv-00651.

16. Attached as Exhibit O is a print out of the docket for *Gonzalez v. Social Concepts, Inc.*, No. 2-14-cv-00650.

17. Attached as Exhibit P is a print out of the docket for *Gonzalez v. Passions Network, Inc.*, No. 2-14-cv-00629.

18. Attached as Exhibit Q is a print out of the docket for *Gonzalez v. Bonanza.com, Inc.*, No. 2-14-cv-00187.

19. Attached as Exhibit R is a print out of the docket for *Gonzalez c. BlackDivine, LLC*, No. 2-14-cv-00160.

20. Attached as Exhibit S is a print out of the docket for *Gonzalez v. FareCompare LP*, No. 2-14-cv-00131.

21. Attached as Exhibit T is a print out of the docket for *Gonzalez v. Homes, Inc.*, No. 2-14-cv-00770.

22. On Friday, June 20, 2014 (via phone) and again on July 11 and 14, 2014 (via email), lead counsel for the parties conferred on the present motion to transfer. During these conversations, I represented that Zulily requested transfer to the Western District of Washington, and asked to consider any facts known to plaintiff to suggest venue was more convenient in Texas. Counsel for the plaintiff did not identify any ties, be it through office, witness or document locations in the Eastern District of Texas for plaintiff.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 16th day of July, 2014.

/s/ Ryan McBrayer
Ryan McBrayer